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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/533,504

03/23/2000

Eric L. Brechner

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06/07/2004

MICROSOFT CORPORATION  
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EXAMINER

ALAUBAIDI, HAYTHIM J

ART UNIT

PAPER NUMBER

2171

DATE MAILED: 06/07/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/533,504

Applicant(s)

BRECHNER ET AL.

Examiner

Haythim J. Alaubaidi

Art Unit

2171

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 March 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-26 is/are allowed.
- 6) ☒ Claim(s) 1,4 and 27-36 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This is a first non-final Office Action in response to Application No. 09533504 filed on March 23, 2003.
2. Claims 1-36 are presented for examination, of which Claims 1, 5, 27-28 and 36 are independent Claims.
3. Claims 1, 4, 27-29 and 32-36, are rejected under 35 U.S.C. 102(b).
4. Claims 30-31, are rejected under 35 U.S.C. 103(a).
5. Claims 2-3 are objected to as being dependent upon a rejected base claim.
6. Claims 5-26, are allowed over the prior art of record.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 4, 27-29 and 32-36, are rejected under 35 U.S.C. 102(b) as being anticipated by Ronald J. Barber (U.S. Patent No. 5,751,286 and Barber hereinafter).

Regarding Claims 1, 4 and 27, Barber discloses:

enabling media clips (Figure No. 5 and corresponding text) having a common desired characteristic (Col 7, Lines 6-12) quality (Col 6, Lines 30-38, i.e. color, texture, size, shape and category) to be identified from among a plurality of different media clips (Col 3, Lines 24-38) each of the plurality of different media clips having been previously associated with a style identifier that is indicative of and corresponds to a characteristic quality of the media clip (Col 3, Lines 40-50, i.e. *plurality of sample image characteristic identifiers (thumbnails), displaying an image query construction window on the display and moving at least one sample image characteristic identifier*)

(a) enabling a desired style identifier to be provided as a search criterion (Col 3, Lines 47-50, i.e. *displaying an image query construction window on the display and moving at least one sample image characteristic identifier from the selection container into the image query construction window to denote an image content characteristic*)

(b) initiating an automated search of the plurality of different media clips, based upon the search criterion; and (Col 5, Lines 52-54)

(c) s a result of the automated search of the plurality of different media clips, identifying media clips that have been associated with the desired style identifier and thus have a common desired characteristic quality (Figure No. 6 and corresponding text).

Regarding Claims 28 and 29, the limitations of this claim are similar in scope to the rejected claims 1 and 27, above. In addition Barber discloses:

a processor (Figure 1, Element No. 10)

a display (Figure 1, Element No. 13)

a user input device (Figure 1, Element No. 16; see also Col 4, Lines 56-57, i.e. providing control inputs to the data processing system 10)

a memory (Figure 1, Element's No. 31 and 36; see also Col 4, Line 60).

Regarding Claims 32 and 34-35, the limitations of this claim are similar in scope to the rejected claims 1 and 27, above. They are therefor rejected as set forth above.

Regarding Claim 33, the limitations of this claim are similar in scope to the rejected claims 1 and 27, above. In addition Barber discloses keywords searching (Figure No. 2, Element No. 42, i.e. TEXTURE and TERM1; see also Col 2, Lines 38-41; see also Col 3, Lines 30-33, keywords and text)

Regarding Claim 36, the limitations of this claim is similar in scope to the rejected claims 1 and 27, above. In addition Barber discloses sorting the plurality of different media clips based upon the absolute ranking value (Col 14, Lines 65-67; see also Col 16, Line 65 through Col 17, Line 4).

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2171

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 30-31, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ronald J. Barber (U.S. Patent No. 5,751,286 and Barber hereinafter).

Regarding Claims 30-31, Barber discloses all of the claimed subject matter set forth above, except the reference does not explicitly indicate the step of disposing the processor at a geographical location from the user. However, the Examiner takes Official Notice that disposing a database or a processor at a geographical area that is remote from the user accessing the processor or the database is notoriously well known feature in the art. Given the intended broad application of Barber's reference, it would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Barber by allowing access to the processor or the database from remote locations, such as the Internet; one good reason would be to increase the revenue by allowing more users to access the system or subscribe to it.

***Allowable Subject Matter***

11. Claims 2-3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The following is the Examiner's statement of reasons for the indication of allowable subject matter:

Regarding Claims 2-3, Applicant's particular system and associated methods for identifying media clips with common characteristics is wherein each media clip in the plurality of different media clips has previously been associated with an absolute ranking value for each of a plurality of different attributes, further comprising the steps of: (a) enabling a desired attribute to be provided to sort the plurality of different media clips based upon the absolute ranking value of the desired attribute that was associated with each of the plurality of different media clips; and in combination with the step of (b) automatically sorting the plurality of different media clips as a function of the absolute ranking value associated with each media clip for the desired attribute in combination with the other limitations of the claims, was not disclosed by, would not have been obvious over, nor would have been fairly suggested by the prior art of record or that encountered in searching of the prior art.

13. Claims 5-26, are allowed over the prior art of record.

14. The following is the Examiner's statement of reasons for the indication of allowable subject matter:

Regarding Independent Claim 5, Applicant's particular method for identifying media clips with common characteristics is associating one of a plurality of different style identifiers with each of the plurality of different media clips, each different style identifier corresponding to a different characteristic quality, selection of a style identifier associated with each media clip being based upon a subjective evaluation of the characteristic quality of the media clip, an identical style identifier being associated with

different media clips that subjectively have been determined to have the same characteristic quality, but which do not necessarily relate to a common subject in combination with the other limitations of the claims, was not disclosed by, would not have been obvious over, nor would have been fairly suggested by the prior art of record or that encountered in searching of the prior art.

The dependent Claims 6-26 being further limiting to independent Claim 5; definite and enabled by the Specification are also allowed.

***Other Prior Art Made of Record***

15. a. Laumeyer et al. (U.S. Patent No. 6625315) discloses a method and apparatus for identifying objects depicted in a videostream;

b. Zhu et al. (U.S. Patent No. 6480840) discloses a method and computer program product for subjective image content similarity-based retrieval;

c. Nelson et al. (U.S. Patent No. 6243713) discloses a multimedia document retrieval by application of multimedia queries to a unified index of multimedia data for a plurality of multimedia data types;

d. Denber. (U.S. Patent No. 6233547) discloses a computer program product for retrieving multi-media objects using a natural language having a pronoun;

e. Li et al. (U.S. Patent No. 6175829) discloses a method and apparatus for facilitating query reformulation.

f. Russin (U.S. Patent No. 6591010) discloses a system and method for image detection and qualification; and



g. Anderson (U.S. Patent No. 6313877) discloses a method and system for automatically managing display formats for a peripheral display coupled to a digital imaging device.

***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

***Points of Contact***

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haythim J. Alaubaidi whose telephone number is (703) 305-1950. The examiner can normally be reached on Monday - Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436.

Any response to this office action should be mailed to:


The Commissioner of Patents and Trademarks, Washington, D.C. 20231 or telefax at our fax number (703) 872-9306.

Hand-delivered response should be brought to Crystal Park II, 2121 Crystal Drive, 6<sup>th</sup> Floor Receptionist, Arlington, Virginia. 22202.

***Haythim J. Alaubaidi***

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Patent Examiner  
Technology Center 2100  
May 26, 2004

  
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